

CLAUSE NOTES

ACTS AMENDMENT AND REPEAL (FAMILY COURT) BILL 1997

A Bill for an Act to amend various Acts and to repeal the Matrimonial Causes and Personal Status Code 1948; and Matrimonial Causes Ordinance 1863, as a consequence of the enactment of the *Family Court Act 1997*.

PART 1 - PRELIMINARY

Clause 1 **Short Title**

The Bill may be cited as the *Acts Amendment Repeal (Family Court) Act 1997* when it comes into operation.

Clause 2 **Commencement**

The Bill comes into operation on the day on which section 246 of the *Family Court Act 1997* ("the Act") comes into operation.

PART 2 - AMENDMENTS TO THE ADOPTION ACT 1994

There is an inconsistency between the *Adoption Act 1994* and the *Family Court Bill 1997* in respect of one of the presumptions of parentage.

The *Family Court Bill 1997* presumes a man to be the father of a child if he executes an instrument under the law of the Commonwealth or a State acknowledging that he is the father of the child. The *Adoption Act 1994* has the additional requirement (which is continued) that the mother of the adoptee endorses the acknowledgment in a statutory declaration. ("the presumption").

The then Minister for Family and Children's Services did not object to the adoption of the presumptions of parentage in the *Family Court Bill 1997*, but wished the presumption to remain in relation to the *Adoption Act 1994*. Accordingly, specific amendments were made to allow for the presumption while following the approach in the *Family Court Bill 1997*. The following provisions of the *Adoption Act 1994*:

section 4(3), (clause 4(2)); new section 4A, (clause 5); section 21, (clause 7); section 22, (clause 8); section 25, (clause 10); section 26, (clause 11); new division 3A, (clause 12); section 68, (clause 16); section 71(b), (clause 17); section 143 (clause 26); and new schedule 2A (clause 27);

Clause 33 Interpretation Act 1984

The amendment updates the name of the Act in the *Stamp Act 1921*.

Clause 34 Parliamentary Commission Act 1971)

The amendment changes "the Registrar" to the new offices of the Court being "the Principal Registrar, a Registrar".

Clause 35 Registration of Births, Deaths and Marriage Act 1961

The amendment addresses the person who may now register or change a first or christian name. Before, if the child was illegitimate it was only the mother who was able to register or change a first or christian name. The provision reflected the language of the *Matrimonial Causes Act* (Cwlth) which was in force before the *Family Law Act 1975* (Cwlth). The provision has been updated.

Clause 36 Stamp Act 1921

The amendment updates the name of the Act in the *Stamp Act 1921*.

Clause 37 Repeals

The *Matrimonial Causes and Personal Status Code 1948* and the *Matrimonial Causes Ordinance 1863* are repealed as the *Family Law Act 1975* (Cwlth) and the *Family Court Bill 1997* now cover the field.